

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

---

STAN KOCH AND SONS TRUCKING,  
INC.,

Case No. 18-CV-2945 (PJS/HB)

Plaintiff,

v.

ORDER

AMERICAN INTERSTATE INSURANCE  
COMPANY,

Defendant.

---

Kent M. Williams, WILLIAMS LAW FIRM; Kevin E. Giebel, GIEBEL AND ASSOCIATES, LLC, for plaintiff.

Stephen E. Schemenauer and Ryan M. Sugden, STINSON LEONARD STREET LLP, for defendant.

This matter is before the Court on defendant American Interstate Insurance Company's motion to dismiss. The Court heard argument on the motion on January 4, 2019. The Court has reviewed the record and considered the arguments made in the parties' briefs and at the hearing. For the reasons stated on the record at the hearing, IT IS HEREBY ORDERED THAT the defendant's motion to dismiss [ECF No. 7] is GRANTED IN PART AND DENIED IN PART as follows:

1. Defendant's motion is GRANTED with respect to Counts II, III, IV, and V.

Those claims are DISMISSED WITHOUT PREJUDICE.

2. Defendant's motion is GRANTED with respect to Count I, to the extent that Count I alleges a breach of contract from the defendant's failure to adequately document the basis for its schedule rating debits and credits.

This claim is DISMISSED WITHOUT PREJUDICE.

3. Defendant's motion is DENIED in all other respects.

Dated: January 7, 2019

s/Patrick J. Schiltz

Patrick J. Schiltz

United States District Judge